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EXAMINER
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ART UNIT	PAPER NUMBER
3621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/692,868	GUNYAKTI ET AL.
	Examiner	Art Unit
	JOSHUA MURDOUGH	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/8/09*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Acknowledgements

1.   This action is responsive to Applicants' response received 1 October 2009.

2.   This action has been assigned paper number 20100127 for reference purposes only.

3.   Claims 1-25 are pending.

4.   Claims 1-25 have been examined.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1, 3, 5, 8-10, 16, 17 and 20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Benson (US 6,047,242) in view of Stefik (US 5,629,980).

7.   As to claims 1, 5, 8, 16, and 17 Benson shows:

    a.   A system comprising:

    b.   a processor ("486 (Intel 80486) 66 Mhz processor," C 15, LL 30-31) for

executing computer-executable instructions ("Statstest function," C 15, L 23); and

    c.   a computer-readable storage medium (inherent, the customer device **102** stores

protected software **103** and a keyfile **105** as well as the "ECP") having encoded thereon

computer-executable instructions ("ECP," C 10, L 21) to support the enforcement of a

license for a computer program **103** subject to use under a plurality of licenses each permitting different rights in the computer program (Figure 3), the computer- readable storage medium comprising:

d.   a licensing component ("ECP," C 10, L 21) common to the plurality of licenses for the computer program ("multiple customers…may share a common license server," C16, LL 64-66), the licensing component maintains a license store **20** in which the licenses are stored, the licensing component further maintains a trust store **105** in which dynamic data is stored in a tamper-resistant manner ("the private keying material should be encrypted," C 16, LL 19-20), wherein the dynamic data is utilizable to validate the licenses (the keyfile is used to validate the license server, and thus, the license, C 13, LL 20-39), each license comprising at least one right in the computer program (execution on a single machine and not on multiple, CC 2-3, LL 66-8) and a set of data associated with said at least one right ("access control list," C 3, L 6), the licensing component exposing a callable interface **24** to the computer program (Figure 2),

e.   an information-retrieval component which receives an identifier of said right from the computer program ("access" right, C 3, L 6) and provides said set of data, or information based on said set of data, to the computer program (list of programs that can access, C 3, LL 5-8).

8.   Benson does not expressly show:

f.   a right-consumption component which receives an identifier of a right from the computer program and determines whether the right can be exercised; and

g.   the rights-consumption component determines whether the right can be exercised

based on whether the right is identified in a license.

h.   determining act is based on whether the particular license or the right is non-

expired.

i.   determining act is based on whether the particular license has been consumed a

number of times that exceeds a limit.

9.   However, Stefik shows:

j.   a right-consumption component (comprising "usage rights language" described in

C 17, L 62 through C 26, L 35) which receives an identifier ("Digital Work Rights," 1501

Figure 15) of a right from the computer program and determines whether the right can be

exercised ("define the digital work rights," C 19, LL 12-19); and

k.   the rights-consumption component determines whether the right can be exercised

based on whether the right is identified in a license (Id.).

l.   determining act is based on whether the particular license or the right is non-

expired ("Time-Spec," 1502, Figure 15).

m.   determining act is based on whether the particular license has been consumed a

number of times that exceeds a limit ("Copy-Count," 1502, Figure 15).

10.   Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to have modified the teachings of Benson to include the usage right language of Stefik

with the distribution of the software. The use of the usage rights language helps enable a variety

of distribution and fee schemes (Stefik, C 18, LL 9-12).

11.   As to claims 3 and 20 Benson further shows:

n.   the rights-consumption component causes the licensing component to select a

license based on one or more factors comprising:

o.   whether the license store is associated with the computer program (A license

cannot be selected if the license store is not associated with the program because there

would be no valid license. C 9, LL 58-62); and

p.   a conflict rule that determines which license to select from among a plurality of

licenses that are associated with the computer program.

12.   As to claim 9, Benson further shows:

q.   said first behavior comprises allowing the computer program to execute (C 10, LL

51-54) , and wherein said second behavior comprises discontinuing execution of the

computer program (C 1, LL 23-27).

13.   As to claim 10, Benson further shows:

r.   said first behavior comprises allowing the computer program to perform a first set

of functions (execute, C 10, LL 51-54), and wherein said second behavior comprises

allowing the computer program to perform a second set of functions that is non- identical

to said first set of functions (making a backup copy, C 1, LL 30-31).

14.   Claims 2, 6, 7, 15, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Benson and Stefik as applied to claim 1 above, and further in view of Remer

(US 2003/0088516).

15.   As to claims 2 and 23 the Benson/Stefik combination teaches as set forth above in

regards to claims 1 and 16.

16.   Benson further shows:

     s.   said licensing component is common to and usable by a plurality of different

computer programs ("multiple programs" C 9, LL 58-62) and said license store stores

licenses for the plurality of different computer programs (Id.), the computer program

being included among said plurality of different computer programs(Id.),

17.   The Benson/Stefik combination does not expressly show:

     t.   said callable interface further comprises:

     u.   a handle-opening component that provides a handle to the computer program;

     v.   wherein the rights-consumption component receives the handle from the

computer program and uses the handle to identify the computer program from which a

call to the rights- consumption component is received; and

     w.   wherein the computer program and licensing component are located on a single

computing device.

18.   However, Remer teaches:

     x.   a handle-opening component that provides a handle to the computer program

(through the operating system, WIN95 or WIN98; [0041] and Table 2; Both Windows 95

and 98 contain WinAPI which uses handles, therefore calls to other software would be

done through these handles.);

y.   wherein the rights-consumption component receives the handle from the

computer program and uses the handle to identify the computer program from which a

call to the rights- consumption component is received (Id.); and

z.   wherein the computer program and licensing component are located on a single

computing device [0026].

19.   Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to have further modified the teachings of Benson to use handles on a single computing

device to identify the computer program because handles allow for the program to be moved to a

different location in memory through the updating of the address stored in the handle.

20.   As to claims 6, 7, 15, and 19, the Benson/Stefik combination teaches as set forth above in

regards to claims 1 and 16 but does not expressly show:

aa.   the computer program and the licensing component execute on a machine,

bb.   wherein the rights-consumption component determines whether the right can be

exercised based on whether the license is bound to said machine; and

cc.   the computer program is associated with a product identifier, and wherein the

rights-consumption component determines whether the right can be exercised based on

whether the license is bound to said machine or to a class of machines of which said

machine is a member.

21.   However, Remer shows:

dd.   the computer program ("software services" Abstract) and the licensing component

("licenses are maintained on the computer" Abstract) execute on a machine ("POS

computer"),

ee.   wherein the rights-consumption component ("licensing service agent" Abstract)

determines whether the fight can be exercised based on whether the license is bound to

said machine ("license that is uniquely identified with a specific computer" Abstract); and

ff.   the computer program is associated with a product identifier [0028], and wherein

the rights-consumption component determines whether the right can be exercised based

on whether the license is bound to said machine ("license that is uniquely identified with

a specific computer" Abstract) or to a class of machines of which said machine is a

member.

22.   Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to have further modified the teachings of Benson to use a product identifier to bind the

license and software to a machine because this would ensure that the software is used on only

one computer at a time.

23.   Claims 4, 11-14, 18, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Benson and Stefik as applied to claims 1, 8, and 16 above, and further in view of Zahir (US

6,115,777).

24.   The Benson/Stefik combination teaches as previously discussed in regards to claims 1, 8,

and 16.

25.   Benson further shows:

gg.   directing the operation of the computer program based on said set of data (list of

programs that can access, C 3, LL 5-8).

26.   The Benson/Stefik combination does not expressly teach:

hh.   the licensing component does not enforce licensing constraints on the computer

program, and wherein said callable interface further comprises:

ii.   an asynchronous-context-initiator component that establishes a context for

asynchronous processing and provides an identifier of said context to the computer

program;

jj.   wherein said rights-consumption component receives the identifier of said context

from said computer program and processes a right-consumption request asynchronously

in response to receipt of the identifier of said context;

kk.   making a second call to a second method of said interface; and

ll.   in response to said second call, receiving an asynchronous context;

mm.   wherein said second call is made prior to said first call, wherein said first call is

further parameterized by said asynchronous context, and wherein the computer program

performs at least one action while the first call is handled asynchronously.

27.   However, Zahir teaches the use of asynchronous context switching (title). In particular,

Zahir teaches an asynchronously called interrupt and the change from the initial context to the

context of the interrupt and back (Figures 8_1 and 8_2). Therefore, it would have been obvious

to one of ordinary skill in the art at the time of the invention to have further modified the

teachings of Benson to include the asynchronous context switching of Zahir because the

asynchronous processing allows for the most important processing to be given priority.

Response to Arguments

28.   Applicant's arguments with respect to claims 1-25 have been considered but are moot in

view of the new ground(s) of rejection.

Conclusion

29.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-

3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor,

Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685